

AMENDED IN SENATE JUNE 24, 2010

AMENDED IN SENATE JUNE 16, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1354

Introduced by Assembly Member Fong

February 27, 2009

An act to amend Section 31538 of, and to add Section 31485.17 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1354, as amended, Fong. County employees' retirement.

Under existing law, counties and districts may provide retirement benefits to their employees pursuant to the County Employees Retirement Law of 1937 (CERL). CERL provides that death benefits and survivors' allowance are payable to the survivors of a deceased member, as specified. CERL also specifies the minimum ages and years of service that are required in order to become eligible for retirement.

Existing federal law regulates the provision of pension benefits and a retirement system providing pension benefits must meet prescribed requirements to maintain its tax qualified status. Federal law requires, in this regard, that a plan provide that, in the case of a participant who dies while performing qualified military service, as defined, the survivors of the participant are entitled to any additional benefits provided under the plan had the participant resumed and then terminated employment on account of death.

This bill would specify that a retirement system established pursuant to CERL shall act in accordance with the requirements of federal law described above. The bill would also require that service for vesting

purposes be credited to a member *who dies while performing qualified military service* for the period of his or her qualified military service. *These provisions would apply to deaths that occur on or after January 1, 2007.*

CERL provides that the management of a retirement system created pursuant to its provisions is vested in a board of retirement. CERL requires that the board of retirement adjust the payment of benefits payable pursuant to the law's provisions, including cost-of-living adjustments, as necessary, in order to maximize the benefits available to members who are subject to specified limits of the Internal Revenue Code.

This bill would prohibit the amount payable to a CERL retirement system member in a limitation year from exceeding the Internal Revenue Code limit as of the annuity starting date and as the limit may be increased in future years, as specified. The bill would specify that cost-of-living adjustments made to Internal Revenue Code limits continue to apply after a member's severance from employment or annuity starting date.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 31485.17 is added to the Government
- 2 Code, to read:
- 3 31485.17. (a) In accordance with Section 401(a)(37) of Title
- 4 26 of the United States Code, if a member dies while performing
- 5 qualified military service, as defined in Section 414(u) of Title 26
- 6 of the United States Code, the survivors of the member shall be
- 7 entitled to any additional benefits that would have been provided
- 8 under the retirement system had the member resumed his or her
- 9 prior employment with an employer that ~~maintains~~ *participates in*
- 10 the system and then terminated employment on account of death.
- 11 (b) For purposes of this section, "additional benefits" shall not
- 12 include benefit accruals relating to the period of qualified military
- 13 service.
- 14 (c) The death of a member or former member while performing
- 15 qualified military service shall not be treated as a service-connected
- 16 death or disability.

1 (d) Service for vesting purposes shall be credited to a member
2 who dies while performing qualified military service for the period
3 of his or her qualified military service.

4 (e) *This section shall apply to deaths occurring on or after*
5 *January 1, 2007.*

6 SEC. 2. Section 31538 of the Government Code is amended
7 to read:

8 31538. (a) The board shall adjust the payment of benefits
9 payable pursuant to this part, as necessary, in order to maximize
10 the benefits available to members who are subject to the limits of
11 Section 415 of the Internal Revenue Code. Those adjustments shall
12 include, but are not limited to, cost-of-living adjustments,
13 cost-of-living banks, temporary annuities, survivor continuance
14 benefits, or any combinations thereof.

15 (b) The amount payable to a member in any limitation year,
16 including cost-of-living adjustments, shall not exceed the limit
17 established under Section 415(b) of the Internal Revenue Code at
18 the annuity starting date, and as may be increased in subsequent
19 years pursuant to Section 415(d) of the Internal Revenue Code and
20 applicable regulations.

21 (c) The cost-of-living adjustments made pursuant to Section
22 415(d) of the Internal Revenue Code to the limit established under
23 Section 415(b) of the Internal Revenue Code continue to apply
24 after a member's severance from employment or annuity starting
25 date.